

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CITY OF HUNTINGTON,**

**Plaintiff,**

**Civil Action No. 3:17-01362**

**v.**

**AMERISOURCEBERGEN DRUG  
CORPORATION, et. al,**

**Defendants.**

**AND**

**CABELL COUNTY COMMISSION,**

**Plaintiff,**

**Civil Action No. 3:17-01665**

**v.**

**AMERISOURCEBERGEN DRUG  
CORPORATION, et. al,**

**Defendants.**

**NON-PARTY WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES,  
BUREAU FOR BEHAVIORAL HEALTH'S  
MOTION TO QUASH DEFENDANT AMERISOURCEBERGEN DRUG  
CORPORATION'S SUBPOENA TO PRODUCE DOCUMENTS AND SUBPOENA TO  
TESTIFY AT A DEPOSITION IN A CIVIL ACTION**

COMES NOW Non-Party West Virginia Department of Health & Human Resources, Bureau for Behavioral Health ("BBH"), by counsel, B. Allen Campbell, Senior Assistant Attorney General, and Steven R. Compton, Deputy Attorney General and hereby files this Motion to Quash two subpoenas served upon it through the West Virginia Secretary of State on May 4, 2020 by counsel for defendant AmerisourceBergen Drug Corporation. BBH actually received the subpoenas May 7, 2020. BBH specifically moves to quash a "Subpoena to Produce Documents, Information, or Objects or to Permit

Inspection of Premises in a Civil Action,” attached hereto as **Exhibit A** and a “Subpoena to Testify at a Deposition in a Civil Action,” attached hereto as **Exhibit B**. The return date Exhibit A is May 18, 2020 and the return date for Exhibit B is June 3, 2020. Counsel for BBH and defendants conferred on May 18, 2020 to attempt to resolve their differences, but were unable to arrive at a resolution.

BBH seeks to quash Defendant AmerisourceBergen Drug Corporation’s subpoenas because they do not allow BBH a reasonable time to comply. See Fed. R. Civ. P. 45(c)(3)(i). Additionally, the broad scope of the subpoenas would render compliance unduly burdensome and the subpoenas seek information that is statutorily confidential. See **Exhibit C**, Affidavit of Christina Mullins . As it pertains to the subpoena for a deposition, BBH additionally moves for a stay of the June 3, 2020 deposition for the reasons stated above in addition to social distancing and public health concerns related to the Covid-19 pandemic.

In the alternative, BBH moves this Court to modify the subpoenas in a manner that will expand the time for compliance to a period when the unprecedented pandemic-related office closures have ended. BBH further requests modification that would limit the overly burdensome scope of the subpoenas.

Therefore, BBH respectfully requests that its Motion to Quash both subpoenas served upon it by AmerisourceBergen Drug Corporation be granted. A proposed Order is attached.

DATED: May 18, 2020

Respectfully submitted,

WEST VIRGINIA DEPARTMENT OF  
HEALTH & HUMAN RESOURCES,

BUREAU FOR BEHAVIORAL  
HEALTH

By Counsel,

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ATTORNEY GENERAL

/S/ B. ALLEN CAMPBELL  
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**CERTIFICATE OF SERVICE**

I, B. Allen Campbell, Senior Assistant Attorney General, do hereby certify that on May 18, 2020 the foregoing “*Non-Party West Virginia Department of Health and Human Resources, Bureau for Behavioral Health’s Motion to Quash Defendant AmerisourceBergen Drug Corporation’s Subpoena to Produce Documents and Subpoena to Testify at a Deposition in a Civil Action*” was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participant:

Gretchen M. Callas, Esq.  
Jackson Kelly PLLC

/S/ B. ALLEN CAMPBELL  
B. ALLEN CAMPBELL  
SENIOR ASSISTANT ATTORNEY GENERAL